

103D CONGRESS  
1ST SESSION

# H. R. 2243

## AN ACT

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To amend the Federal Trade Commission Act to extend the authorization of appropriations in such Act, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE, REFERENCE.**

4       (a) SHORT TITLE.—This Act may be cited as the  
5       “Federal Trade Commission Act Amendments of 1993”.

6       (b) REFERENCE.—Whenever in this Act an amend-  
7       ment or repeal is expressed in terms of an amendment  
8       to, or repeal of, a section or other provision, the reference  
9       shall be considered to be made to a section or other provi-  
10      sion of the Federal Trade Commission Act.

11      **SEC. 2. EFFECTIVE DATE OF ORDERS.**

12      Section 5(g) (15 U.S.C. 45(g)) is amended to read  
13      as follows:

14      “(g) An order of the Commission to cease and desist  
15      shall become final as follows:

1           “(1) Upon the expiration of the time allowed  
2           for filing a petition under subsection (c) for review  
3           if no such petition has been duly filed within such  
4           time, except that the Commission may after the  
5           order becomes final modify or set it aside to the ex-  
6           tent provided in the last sentence of subsection (b).

7           “(2) Except as to any order provision subject to  
8           paragraph (4), upon the 60th day after such order  
9           is served if a petition under subsection (c) for review  
10          has been duly filed, except that any such order may  
11          be stayed, in whole or in part and subject to such  
12          conditions as may be appropriate, by—

13               “(A) the Commission,

14               “(B) an appropriate court of appeals of  
15               the United States if (i) a petition for review of  
16               such order is pending in such court, and (ii) an  
17               application for such a stay was previously sub-  
18               mitted to the Commission and the Commission,  
19               within the 30-day period beginning on the date  
20               the application was received by the Commission,  
21               either denied the application or did not grant or  
22               deny the application, or

23               “(C) the Supreme Court if an applicable  
24               petition for a writ of certiorari is pending.

1           “(3) For purposes of subsection (m)(1)(B) and  
2       section 19(a)(2)—

3           “(A) if a petition under subsection (c) for  
4       review of the order of the Commission has been  
5       filed and if the order of the Commission has  
6       been affirmed or the petition for review has  
7       been dismissed by a court of appeals of the  
8       United States and no petition for certiorari has  
9       been duly filed, upon the expiration of the time  
10      allowed for filing a petition to the Supreme  
11      Court for a writ of certiorari,

12          “(B) if a petition under subsection (c) for  
13      review of the order of the Commission has been  
14      filed and if the order of the Commission has  
15      been affirmed or the petition for review has  
16      been dismissed by a court of appeals of the  
17      United States, upon the denial of a petition for  
18      a writ of certiorari, or

19          “(C) if a petition under subsection (c) for  
20      review of the order of the Commission has been  
21      filed, upon the expiration of 30 days from the  
22      date of issuance of a mandate of the Supreme  
23      Court directing that the order of the Commis-  
24      sion be affirmed or the petition for review be  
25      dismissed.

1           “(4) In the case of an order provision requiring  
2           a person, partnership, or corporation to divest itself  
3           of stock, other share capital, or assets—

4                   “(A) if a petition under subsection (c) for  
5                   review of such order of the Commission has  
6                   been filed and if the order of the Commission  
7                   has been affirmed or the petition for review has  
8                   been dismissed by a court of appeals of the  
9                   United States and no petition for certiorari has  
10                  been duly filed, upon the expiration of the time  
11                  allowed for filing a petition to the Supreme  
12                  Court for a writ of certiorari,

13                   “(B) if a petition under subsection (c) for  
14                   review of such order of the Commission has  
15                   been filed and if the order of the Commission  
16                   has been affirmed or the petition for review has  
17                   been dismissed by a court of appeals of the  
18                   United States upon the denial of a petition for  
19                   a writ of certiorari, or

20                   “(C) if a petition under subsection (c) for  
21                   review of such order of the Commission has  
22                   been filed, upon the expiration of 30 days from  
23                   the date of issuance of a mandate of the Su-  
24                   preme Court directing that the order of the

1 Commission be affirmed or the petition for re-  
2 view be dismissed.”.

3 **SEC. 3. PROCEEDINGS SUBSEQUENT TO VIOLATIONS OF**  
4 **ORDERS.**

5 (a) CIVIL PENALTIES.—Section 5(m)(1)(B) (15  
6 U.S.C. 45(m)(1)(B)) is amended by inserting “, other  
7 than a consent order,” immediately after “order” the first  
8 time it appears.

9 (b) DETERMINATIONS OF LAW.—Section 5(m)(2) (15  
10 U.S.C. 45(m)(2)) is amended by adding at the end the  
11 following: “Upon request of any party to such an action  
12 against such defendant, the court shall also review the de-  
13 termination of law made by the Commission in the pro-  
14 ceeding under subsection (b) that the act or practice which  
15 was the subject of such proceeding constituted an unfair  
16 or deceptive act or practice in violation of subsection (a).”.

17 **SEC. 4. CIVIL INVESTIGATIVE DEMANDS.**

18 (a) SECTION 20(a).—Section 20(a) (15 U.S.C. 57b-  
19 1(a)) is amended—

20 (1) in paragraph (2), by striking “unfair or de-  
21 ceptive acts or practices in or affecting commerce  
22 (within the meaning of section 5(a)(1))” and insert-  
23 ing in lieu thereof “act or practice or method of  
24 competition declared unlawful by a law administered  
25 by the Commission”;

1           (2) in paragraph (3), by striking “unfair or de-  
2       ceptive acts or practices in or affecting commerce  
3       (within the meaning of section 5(a)(1))” and insert-  
4       ing in lieu thereof “acts or practices or methods of  
5       competition declared unlawful by a law administered  
6       by the Commission”; and

7           (3) in paragraph (7), by striking “unfair or de-  
8       ceptive act or practice in or affecting commerce  
9       (within the meaning of section 5(a)(1))” and insert-  
10      ing in lieu thereof “act or practice or method of  
11      competition declared unlawful by a law administered  
12      by the Commission”.

13      (b) SECTION 20(c).—Section 20(c)(1) (15 U.S.C.  
14   57b–1(c)) is amended by striking “unfair or deceptive acts  
15   or practices in or affecting commerce (within the meaning  
16   of section 5(a)(1))” and inserting in lieu thereof “any act  
17   or practice or method of competition declared unlawful by  
18   a law administered by the Commission”.

19      (c) SECTION 20(j).—Section 20(j) (15 U.S.C. 57b–  
20   1(j)) is amended by inserting immediately before the semi-  
21   colon the following: “, any proceeding under section 11(b)  
22   of the Clayton Act, or any adjudicative proceeding under  
23   any other provision of law”.

1 **SEC. 5. AGRICULTURAL COOPERATIVES.**

2 The Federal Trade Commission Act is amended by  
3 redesignating sections 24 and 25 as sections 25 and 26,  
4 respectively, and by inserting after section 23 the follow-  
5 ing:

6 “SEC. 24. (a) The Commission shall not have any au-  
7 thority to conduct any study, investigation, or prosecution  
8 of any agricultural cooperative for any conduct which, be-  
9 cause of the provisions of the Act entitled ‘An Act to au-  
10 thorize association of producers of agricultural products’,  
11 approved February 18, 1922 (7 U.S.C. 291 et seq., com-  
12 monly known as the Capper-Volstead Act), is not a viola-  
13 tion of any of the antitrust Acts or this Act.

14 “(b) The Commission shall not have any authority  
15 to conduct any study or investigation of any agricultural  
16 marketing orders.”.

17 **SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

18 Section 25 (15 U.S.C. 57c) (as so redesignated by  
19 section 5) is amended to read as follows:

20 “SEC. 25. To carry out the functions, powers, and  
21 duties of the Commission there are authorized to be appro-  
22 priated \$88,000,000 for fiscal year 1993, \$92,000,000 for  
23 fiscal year 1994, and \$99,000,000 for fiscal year 1995.”.



1 **SEC. 7. ACTION OF COMMISSION RESPECTING CERTAIN**  
2 **PROCEEDINGS.**

3 (a) IN GENERAL.—The Federal Trade Commission  
4 shall not have any authority to use any funds which are  
5 authorized under section 25 to be appropriated to carry  
6 out the Federal Trade Commission Act (15 U.S.C. 41 et  
7 seq.) for fiscal years 1993, 1994, or 1995 for the purpose  
8 of submitting statements to, appearing before, or interven-  
9 ing in the proceedings of, any Federal or State agency  
10 unless the Commission notifies the Committee on Energy  
11 and Commerce of the House of Representatives and the  
12 Committee on Commerce, Science, and Transportation of  
13 the Senate of such action as soon as possible.

14 (b) NOTICE.—The notice required by subsection (a)  
15 with respect to Federal Trade Commission action shall in-  
16 clude—

- 17 (1) the name of the agency involved,  
18 (2) the date of such action, and  
19 (3) a concise statement regarding the nature  
20 and purpose of such action.

21 **SEC. 8. EFFECTIVE DATE.**

22 (a) IN GENERAL.—Except as provided in subsections  
23 (b) and (c), the amendments made by this Act and this  
24 Act shall take effect on the date of enactment of this Act.

25 (b) SECTION 2.—

1           (1) IN GENERAL.—The amendment made by  
2       section 2 shall apply only with respect to cease and  
3       desist orders issued under section 5 of the Federal  
4       Trade Commission Act (15 U.S.C. 45) after the date  
5       of enactment of this Act.

6           (2) CONSTRUCTION.—The amendment made by  
7       section 2 shall not be construed to affect in any  
8       manner a cease and desist order which was issued  
9       before the date of enactment of this Act. Such  
10      amendment shall not be construed to affect in any  
11      manner a cease and desist order issued after the  
12      date of enactment of this Act, if such order was is-  
13      sued pursuant to remand from a court of appeals or  
14      the Supreme Court of an order issued by the Fed-  
15      eral Trade Commission before the date of enactment  
16      of this Act.

17      (c) SECTION 4.—The amendments made by section  
18   4 shall apply only with respect to compulsory process is-  
19   sued after the date of enactment of this Act.

Passed the House of Representatives June 21, 1993.

Attest:

*Clerk.*